

#9/elec.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Jaworski et al.
Serial No. : 09/883,797
Filed : June 18, 2001
Title : FATTY ACID ELONGASES

Art Unit : 1638
Examiner : E. McElwain

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Commissioner for Patents
Washington, D.C. 20231

DEC 3 1 2002

RESPONSE TO RESTRICTION REQUIREMENT

TECH CENTER 1638/2900

Responsive to the Restriction Requirement mailed October 2, 2002, Applicants elect the invention of Group VIII, claims 33-37 and 40 to the extent that the claims are drawn to a nucleic acid sequence encoding SEQ ID NO:2, plants containing such a sequence, and methods of modifying the levels of very long chain fatty acids in a plant by transforming the plant with such a sequence. Applicants respectfully traverse this restriction.

Applicants submit that Groups I, II, III, IV, V, VI, and VII should be combined into a single group, and likewise, Groups VIII, IX, X, XI, XII, XIII, and XIV should be combined into a single group. The Examiner stated in the Restriction Requirement that nucleotide sequences encoding different proteins are structurally distinct chemical compounds and are unrelated to one another. Applicants disagree with this statement with respect to the relatedness of EL1-EL7. Tables 1 and 2 show the nucleotide and amino acid pair distances, respectively, between EL1-EL7. The pair distances represent the percent sequence similarity between the EL1-EL7 sequences. Since the percent sequence similarity between EL1-EL7 ranges from 42.3-70.5% for nucleotide sequences and 42.0-75.8% for amino acid sequences, the nucleotide sequences and the encoded amino acid sequences are, in fact, clearly related. Therefore, Applicants submit that it would not be an undue burden on the Examiner to search for such sequences. In fact, given the sequence similarity between the EL1-EL7 sequences, a search for one of the EL sequences

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would encompass a search for the other EL sequences. This is supported by the Examiner's classification of the EL1-EL7 polypeptide sequences (Class 530, subclass 370) and the nucleic acid sequences encoding such polypeptides (Class 800, subclass 281).

In addition, Applicants respectfully point out to the Examiner that the EL1-EL7 nucleic acid sequences that were examined in the parent application (U.S. Application No. 08/868,373, now issued as U.S. Patent No. 6,307,128) were examined together as a single group (please see the August 28, 1998 Restriction Requirement in the parent case).

For the reasons stated above, Applicants propose that the pending claims in the above-referenced application be restricted as follows: Group I, claims 10-13, 16, 17, 31, and 32; and Group II, claims 33- 40. Applicants respectfully request reconsideration of the restriction of claims.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: December 2, 2002

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